

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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DEBRA LICHVAR,	:	
	:	CASE NO.: 20-942
Plaintiff,	:	
	:	
v.	:	
	:	
TARGET CORPORATION,	:	
	:	
Defendant.	:	
	:	Electronically Filed
	:	
	:	
	:	<b>JURY TRIAL DEMANDED</b>
	:	

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**DEFENDANT'S PETITION FOR REMOVAL**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, the Defendant, Target Corporation (hereinafter referred to as "Target"), by and through its counsel, Marshall Dennehey Warner Coleman & Goggin, and Joseph V. Lesinski, Esquire, and hereby files this Petition for Removal and removes to the United States District Court for the Western District of Pennsylvania the state court action described below:

1. This action arises from a trip and fall incident that allegedly occurred on August 29, 2018, at a Target store located at 360 E Waterfront Drive, Homestead, Pennsylvania, Allegheny County, 15120, in which the Plaintiff, Debra Lichvar (hereinafter "Plaintiff"), allegedly sustained bodily injuries.

2. On or about March 19, 2020, Plaintiff commenced an action by Complaint in the Court of Common Pleas of Allegheny County, Pennsylvania at Docket No. GD-20-004410. *See* Complaint, a true and correct copy attached hereto as Exhibit "A".

3. In her Complaint, Plaintiff raises a negligence cause of action against Target. *See* *Id.* at ¶¶ 19-21.

4. The Complaint was served on Target on May 19, 2020, in accordance with the Pennsylvania Rules of Civil Procedure. *See* Proof of Service by Certified Mail on Defendant Pursuant to Pa.R.C.P. 405(c), a true and correct copy attached hereto as Exhibit “B”.

5. The following pleadings have been filed in this action to date:

- (a) Complaint;
- (b) Proof of Service by Certified Mail on Defendant Pursuant to Pa.R.C.P. 405(c);
  - and
- (c) Praeclipe for Appearance.

*See* Court of Common Pleas of Allegheny County, Pennsylvania Docket, a true and correct copy attached hereto as Exhibit “C”.

6. A true and correct copy of remaining the court paper listed above, excluding the Complaint, which is attached hereto as Exhibit “A”, and Proof of Service by Certified Mail on Defendant Pursuant to Pa.R.C.P. 405(c), which is attached hereto as Exhibit “B”, is attached hereto as Exhibit “D”.

### **JURISDICTION**

7. This action is one over which this Honorable Court has original jurisdiction pursuant to the provisions of 28 U.S.C. § 1332.

8. Complete diversity of citizenship exhibits between the parties:

- (a) It is Target’s understanding that, based on the averments in the Complaint, Plaintiff is a citizen of Pennsylvania and currently resides in South Park, Allegheny County, Pennsylvania. *See* Exhibit “A”.

(b) Target is and was at the time of the commencement of this action incorporated under the laws of the State of Minnesota, with its principal place of business in Minneapolis, Minnesota.

9. The amount in controversy meets or exceeds the sum or value of \$75,000, exclusive of interest and costs.

10. Specifically, in the Complaint, Plaintiff alleges that her damages are in excess of the arbitration limits of Allegheny County, Pennsylvania, which is \$35,000. Additionally, Plaintiff has asserted that she is entitled to compensatory damages for bodily injuries including a torn medial meniscus in her left knee, which she has allegedly undergone surgeries for, loss of cartilage in her left knee, pain in her left knee, bruises, contusions and other injuries in or about her nerves, muscles, bones, tendons, ligaments, tissues and vessels of her body, and nervousness, emotional tension, anxiety and depression. *See Exhibit “A” at ¶¶ 17-18.* Furthermore, when the undersigned requested an agreement to cap the alleged damages at \$75,000, counsel for Plaintiff refused. *See Email Correspondence dated June 23, 2020, a true and correct copy attached hereto as Exhibit “E”.*

11. Thus, the amount in controversy exclusive of interest and costs meets or exceeds the jurisdictional requirements for diversity jurisdiction.

12. This civil action is therefore one over which this Honorable Court has original jurisdiction pursuant to 28 U.S.C. § 1332 and which may be removed to this Honorable Court by Target pursuant to 28 U.S.C. §1441.

#### **TIMELINESS**

13. This Petition for Removal was filed within thirty (30) days of the date Plaintiff's Complaint was filed with the Court of Common Pleas of Allegheny County, Pennsylvania and served on Target.

14. Thus, this Petition for Removal is filed timely under 28 U.S.C. §1446(b)(1).

**VENUE AND OTHER MATTERS**

15. The Court of Common Pleas of Allegheny County Pennsylvania is located within the jurisdiction of the United States District Court for the Western District of Pennsylvania. 28 U.S.C. §118(c).

16. Accordingly, this Honorable Court is embracing the place where such action is pending and venue is proper. *See* 28 U.S.C. §118(c) and §1441(a).

17. Promptly after filing this Petition for Removal, Target will provide written notice of this Petition for Removal to all counsel and will file a written notice with the Court of Common Pleas of Allegheny County, Pennsylvania, as required by 28 U.S.C. §1446(d). *See* Notice of Filing of Petition for Removal, a true and correct copy attached hereto as Exhibit "F".

WHEREFORE, Target Corporation hereby removes to this Honorable Court the above-captioned action, now pending in the Court of Common Pleas of Allegheny County, Pennsylvania, and requests that this action be placed on the Pittsburgh docket for this Honorable Court for further proceedings as though this action had originally been instituted in this Honorable Court.

**JURY TRIAL DEMANDED**

Respectfully submitted,

**DATE: 06/24/2020**

**MARSHALL DENNEHEY WARNER  
COLEMAN & GOGGIN**

By: *Joseph V. Lesinski*  
Joseph V. Lesinski, Esquire  
Union Trust Building  
501 Grant St, Suite 700  
Pittsburgh, PA 15219  
412-803-1140/412-803-1188 (fax)  
*Counsel for Defendant, Target Corporation*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing **PETITION FOR REMOVAL** has been served upon Counsel on this 24<sup>th</sup> day of June, 2020, via email and United States First-Class Mail, postage prepaid, addressed as follows:

Michael E. Megrey, Esquire  
Woomer & Talarico, LLC  
2945 Banksville Road, Suite 200  
Pittsburgh, PA 15216  
mmegrey@woomerlaw.com

**MARSHALL DENNEHEY WARNER  
COLEMAN & GOGGIN**

By: */s/ Joseph V. Lesinski*  
Joseph V. Lesinski, Esquire  
Union Trust Building  
501 Grant St, Suite 700  
Pittsburgh, PA 15219  
412-803-1140/412-803-1188 (fax)  
*Counsel for Defendant, Target Corporation*